

REMARKS

I. Introduction

Claims 11 and 14-20 are pending in the present application after cancellation of claims 12-13. Claims 11, 14-17 and 19 have been amended. For at least the reasons set forth below, Applicants respectfully submit that the claims are in condition for allowance.

Applicants note with appreciation the acknowledgement of the claim for foreign priority and the indication that all of the certified copies of the priority documents have been received.

II. Rejection of Claims 11-20 under Judicially Created Doctrine of Double Patenting

Claims 11-20 are provisionally rejected under the judicially created doctrine of double patenting over claims 8-14 of co-pending U.S. patent application 10/496,434 and claims 1-14 of co-pending U.S. patent application 10/767,087. In order to facilitate expedited prosecution of the present application, Terminal Disclaimers under 37 C.F.R. § 1.321 (c) are being submitted to overcome the non-statutory double patenting rejections based on U.S. patent applications 10/496,434 and 10/767,087.

Claims 11-20 are rejected under the judicially created doctrine of double patenting over claims 1-14 of U.S. Patent No. 6,820,709 and claims 1-7 of U.S. Patent No. 6,853,903. In order to facilitate expedited prosecution of the present application, Terminal Disclaimers under 37 C.F.R. § 1.321 (c) are being submitted to overcome the non-statutory double patenting rejections based on U.S. Patent Nos. 6,820,709 and 6,853,903.

It is therefore respectfully submitted that the double-patenting rejections of claims 11-20 have been overcome.

III. Rejection of Claims 11-20 under 35 U.S.C. § 112

Claims 11-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, the Examiner objected to the phrase “a safe stop-and-go” in claim 11. In response, this phrase has been deleted from amended claim 11. Claims 12 and 13 have been canceled. Accordingly, Applicants submit that claim 11 and its pending dependent claims 14-20 are in compliance with 35 U.S.C. § 112, second paragraph.

IV. Rejection of Claims 11-20 under 35 U.S.C. § 102(e)

Claims 11-20 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,560,525 ("Joyce"). Claims 12-13 have been canceled. Applicants respectfully submit that Joyce fails to anticipate claims 11 and 14-20, for the reasons explained below.

To anticipate a claim under 35 U.S.C. § 102(e), a single prior art reference must identically disclose each and every claim feature. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claim feature is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997).

Amended claim 11 recites, in relevant parts, "a sensor device for measuring an operating parameter of the motor vehicle and for measuring a distance to an object located in front of the motor vehicle"; "a controller for controlling one of a speed and an acceleration of the motor vehicle as a function of the measured operating parameter and the measured distance [[data]] to the object"; "the controller includes a stop-and-go function . . . , and the controller continuously checks the sensor device during the stop-and-go operation for at least one predefined condition, wherein the at least one predefined condition includes a turning operation of the motor vehicle, and wherein the turning operation is detected when a turn radius is smaller than a predefined threshold value, the turn radius being determined by an evaluation of one of a yaw rate signal and a steering angle signal, and in the presence of the at least one predefined condition, initiates a procedure for the shutdown of the stop-and-go function." It should be noted that the "turning operation of the motor vehicle" recited in claim 11 is the turning operation of the host vehicle that is controlled by the claimed "controller."

Joyce discloses an ACC system that provides a conventional ACC mode in which following of a preceding vehicle is made possible for speeds above a certain limiting speed, as well as providing a "stop-and-go" mode which is activated when the vehicle is traveling at speeds below the limiting speed. In this connection, Joyce discusses in column 5, lines 34-56 (in connection with Figs. 4 and 5) situations in which a controlled vehicle 12 outfitted with the ACC system 10 is following a preceding vehicle (66, 70) traveling in front the controlled vehicle 12, and the preceding vehicle (66, 70) performs a turning maneuver. However, there is absolutely no suggestion in Joyce that the controlled vehicle 12, i.e., the following vehicle, is equipped with a

“controller [that] continuously checks the sensor device during the stop-and-go operation” for a turning operation of the controlled vehicle. In addition, there is absolutely no suggestion in Joyce that “the turning operation is detected when a turn radius is smaller than a predefined threshold value, the turn radius being determined by an evaluation of one of a yaw rate signal and a steering angle signal.” Furthermore, there is no suggestion in Joyce that, upon detection of the turning operation of the controlled vehicle, a procedure for the shutdown of the stop-and-go function is initiated. Joyce merely indicates that, if the preceding vehicle is turning, the following controlled vehicle is held to a standstill, or alternatively, follows behind the preceding vehicle that is turning off.

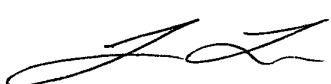
For the foregoing reasons, claim 11 and its dependent claims 14-20 are not anticipated by Joyce. Withdrawal of the anticipation rejection of claims 11 and 14-20 is respectfully requested.

CONCLUSION

In view of the foregoing, it is submitted that claims 11 and 14-20 are in allowable condition. It is therefore respectfully requested that the present application issue as early as possible.

Respectfully submitted,

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